



ORDINANCE NO. 22-12

AN ORDINANCE REGULATING SHORT-TERM RENTAL OF DWELLING UNITS LOCATED IN CERTAIN RESIDENTIAL ZONING DISTRICTS WITHIN THE TOWN OF TAOS; PROVIDING FOR AN ANNUAL SHORT-TERM RENTAL PERMIT; PROVIDING FOR RENEWAL OF THE ANNUAL PERMIT; PRESCRIBING THE NUMBER OF PERMITS OFFERED; PROVIDING OPERATING RULES FOR SHORT-TERM RENTAL UNITS; PROVIDING PENALTIES FOR VIOLATION AND ENFORCEMENT; AND REQUIRING REGISTRATION OF SHORT-TERM RENTAL UNITS ON NONRESIDENTIAL PROPERTY; REPEALING ORDINANCE NO. 20-08 (2020)(TOWN CODE, SECTION 5.04.060)

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF TAOS, AS FOLLOWS:

Section One. Legislative Findings. The Governing Body finds that:

- A. The practice of renting dwellings and rooms within dwellings has become widespread in the United States and recently within the Town of Taos;
- B. The practice raises a number of issues including whether short-term occupancy is consistent with zoning rules, whether the practice endangers the tourism and hotel industry, whether the owners of dwellings offered for short-term rental are paying their share of the Lodger's Tax and the gross receipts tax, whether life safety issues exist with short-term occupancies, whether the practice is a challenge for law enforcement, and how the practice will affect neighborhoods and the historic districts, property values and infrastructure; and
- C. It is therefore necessary to address these issues before short term rentals create negative consequences for our community by creating herein reasonable and sensible regulation of the practice.

Section Two. Short Title.

This Ordinance shall be cited as "the Town of Taos Short-Term Rental Ordinance" and shall be codified at Section 5.04.060 (*et seq.*) of the Town Code.

Section Three. Definitions.

- A. "Owner/Operator" shall mean a person who owns or operates a Short-Term Rental Unit on behalf of an owner.
- B. "New Short-Term Rental Permit" means a permit issued following the effective date of this Ordinance.
- C. "Resort facility" means a facility that contains any combination of swimming pools, spa facilities, golf courses, restaurants and tennis facilities, that has been approved by the Town of Taos pursuant to a special use permit.
- D. "Short-Term Rental Unit" shall mean a dwelling unit, or portion thereof, that is located within a residential zoning district and is leased or licensed to a person for thirty (30) or fewer days, and shall not include a hotel, motel, bed and breakfast, boarding house, resort facility, or a dwelling unit sharing a common wall, floor or ceiling with another dwelling unit such as an apartment, a duplex, a townhome, or multi dwelling property.

Section Four. Short-Term Rentals, General, Permitted Location.

- A. Lease or license of a Short-Term Rental Unit shall be permitted only as set forth in this Ordinance.
- B. A permit is required to lease or license a Short-Term Rental Unit to any person.
- C. A Short-Term Rental Unit shall be prohibited within the Historic District(s) and Historic and Hotel Overlay Zones of the Town of Taos and in the Central Business District (CBD), or in a dwelling unit sharing a common wall, floor or ceiling with another dwelling unit such as an apartment, a duplex, a townhome, or multi dwelling property; provided, however, a property within those zones that was previously permitted by the Town and in compliance at all relevant times with Ordinance No. 20-08, repealed herein, may nevertheless register for continuation of a nonconforming use pursuant to this Ordinance and may apply for a permit under Section 9 of this Ordinance.
- D. A Short-Term Rental Unit is only permitted in the following zoning districts: RA-20, RA-10, RA-6, RA, R-1, R-2, R-3, R-4, R-6, R-14, C-1, and C-2. In some districts, a Short-Term Rental Unit is a conditional use in which the appropriate conditional use permit is required before a Short-Term Rental Unit would be permitted in that District.

Section Five. Number of Permits.

- A. The number of permits issued each year for Short-Term Rental Units shall not exceed one hundred twenty (120).
- B. Should the number of permits exceed one hundred twenty (120), the Town shall not issue any new permits until the number of permits is one hundred twenty (120) or less.
- C. Annexation of a Short-Term Rental Unit is permitted but shall not increase the number of permits allowed under Section 5(A).

Section Six. Operating Rules.

Short-Term Rental Units which possesses a valid Short-Term Rental Unit permit pursuant to this Ordinance shall adhere to the following operating rules:

- A. Off-street / on-site parking shall be provided for each Short-Term Rental Unit as follows: (a) one bedroom, one parking space; and (b) two or more bedrooms, two parking spaces, or a minimum of one parking space per vehicle;
- B. Neither the Owner/occupants of a Short-Term Rental Unit nor their guests may park and occupy recreational vehicles overnight on-site or on any street adjoining a Short-Term Rental Unit;
- C. Short-Term Rental Units located on residentially-zoned property shall comply with the rules of the zoning district in which the Short-Term Rental Unit is located;
- D. The total number of persons permitted to occupy a Short-Term Rental Unit at any time, including guests, shall not exceed two (2) times the number of persons allowed by Section 6(E) of this Ordinance;
- E. The total number of persons that may occupy a Short-Term Rental Unit overnight shall not exceed twice the number of bedrooms. Family members under the age of fifteen (15) shall not be counted toward the maximum permitted occupancy;
- F. Noise or other disturbance outside the Short-Term Rental Unit, including on decks, portals, porches, balconies, patios, yards, pools, driveways, or carports, is prohibited between 10:00 p.m. and 9:00 a.m.;
- G. Occupants of the Short-Term Rental Unit shall be informed in writing of relevant Town ordinances, including this Ordinance, by the Owner/Operator during check-in. All occupants shall comply with all relevant Town Ordinances and the Town Code;
- H. The Owner/Operator shall comply with all provisions of the Town's Lodger's Tax Ordinance, shall report occupancy, and shall collect and transmit the appropriate tax when due;
- I. The Owner/Operator shall pay immediately when due all applicable local, federal and State taxes, including the New Mexico gross receipts tax;
- J. The Owner/Operator shall make available to the Town for its inspection, during regular business hours, all records relating to the operation of the Short-Term Rental Unit to enable the Town to determine compliance with this Ordinance;
- K. The Owner/Operator shall maintain adequate fire, property, general liability insurance (or short-term rental insurance coverage) with minimum liability limits of at least \$1,000,000 for the Short-Term Rental Unit. Proof of insurance shall be required at the time the permit is issued and at such other times as requested by the Town;
- L. Each Short-Term Rental Unit shall be kept in a habitable and safe condition for tenants, in compliance with all federal, state and local standards, statutes, regulations, health orders, and ordinances;
- M. Each Short-Term Rental Unit shall be thoroughly cleaned and disinfected following each use;
- N. Upon transfer of ownership of a Short-Term Rental Unit, the Short-Term Rental Unit permit shall immediately terminate without the necessity of notice. If a new owner wishes to use the property as a Short-Term Rental Unit, a new application shall be required;
- O. A valid Short-Term Rental Unit permit number shall be included in all advertising of the Short-Term Rental Unit, including listings on all online marketplace platforms;

- P. A real estate broker listing residential property in the Town of Taos on which a Short-Term Rental Unit exists, shall provide prospective buyers a current copy of this Ordinance; and
- Q. All Short-Term Rentals shall be considered to be non-residential property for purposes of the fire code, provision of utilities, and the Town Code. Copies of commercial utility bills shall be submitted with the application for all utilities.

Section Seven. Application for a New Short-Term Rental Unit Permit.

- A. A person desiring a new Short-Term Rental Unit Permit shall file an application with the Code Administrator at *www.taosgov.com*. A separate application shall be filed for each permit desired. The form of application shall be provided by the Town. Applications for new permits shall be submitted no later than September 30 for a permit beginning on October 1 each year.
- B. The application shall include the address, name, phone number and email address of the Owner/Operator or some person who is available locally to respond to emergencies and complaints twenty-four hours per day, seven days per week to respond to complaints regarding the operation or occupancy of the Short-Term Rental Unit.
- C. The application shall include a statement signed by the Owner/Operator agreeing that the Short-Term Rental Unit shall be operated in compliance with this Ordinance and all other applicable provisions of the Town Code and that the operation of the Short-Term Rental Unit is in compliance with any applicable private covenants.
- D. The applicant shall submit proof of satisfactory life safety and building code inspections conducted by a Certified Building Official, New Mexico Licensed Architect or a New Mexico Licensed Engineer and a copy of a Certificate of Occupancy and/or a letter from a New Mexico Licensed Architect showing the change in occupancy type when submitting the application. The Town may perform random inspections thereafter to ensure code compliance.
- E. The applicant shall, more than ten (10) days prior to submitting the application, mail notice by first class mail describing the exact location of the property proposed for the Short-Term Rental Unit and the nature of the proposed tenancy to any homeowners' association in which the proposed Short-Term Rental Unit is located, and to the owners of properties within two hundred (200) feet of the subject property boundary (exclusive of rights of way and as shown in the records of the County Assessor), and to the Town of Taos. Copies of the mailing lists and proof of mailing must be provided to the Town along with the application.
- F. The application shall be accompanied by a non-refundable application and fire inspection fee of Three Hundred and Fifty Dollars (\$350) to cover application processing and fire inspections. This application fee is non-refundable. The application shall also be accompanied by the annual Town of Taos Short-term Rental Permit Fee of five hundred and twenty-five dollars (\$525) per unit, which is refundable if the application is not granted.

Section Eight. Permit.

- A. Upon timely submission of the application, the statement of the Owner/Operator, proof of code inspections, proof of insurance, application and the permit fee, the Town may issue a New Short-Term Rental Unit Permit so long as the application is consistent with all the

provisions of this Ordinance and issuance of the permit does not exceed the maximum number of permits specified in Section Five of this Ordinance.

- B. The permit shall be valid for one year, from October 1 to September 30 of the following year and may be renewed as provided in Section Nine. A permit may be issued during the year so long as issuance of the permit does not exceed the number of permits specified in Section Five of this Ordinance, but a partial-year permit shall nevertheless expire on September 30 of each year.
- C. Once issued, a permit is not transferable to another person or property.
- D. Applications for new permits are accepted on a first-come, first-served basis.

Section Nine. Permit Renewal.

- A. A Short-Term Rental Unit permit may be renewed if said permit is in good standing and in-force, and if the application complies with the Code.
- B. A renewal application shall be accompanied by a non-refundable application and fire inspection fee of Three Hundred and Fifty Dollars (\$350) to cover processing of the renewal application plus the cost of the annual fire inspection. The renewal application shall also be accompanied by the permit fee of Five Hundred and Twenty-Five Dollars (\$525), which is refundable if the renewal is not granted.
- C. If no changes requiring a building permit have been made to the Short-Term Rental Unit, a renewal application shall include proof that life safety and building code inspections were obtained and were satisfactory at the time the Short-Term Rental Unit was first permitted. If changes requiring a building permit have been made to the Short-Term Rental Unit, new life safety and building code inspections, by a Certified Building Official (CBO), a NM Licensed Architect or a NM Licensed Engineer, must be obtained and submitted along with the renewal application.
- D. An application for renewal must be submitted to the Town no later than November 30 of each year.
- E. Applications for renewal permits are accepted on a first-come, first-served basis.

Section Ten. Violations, Penalties.

- A. Any person that violates or fails to comply with any of the requirements of this Ordinance, or any person is found operating a Short-Term Rental Unit without a valid permit or found to be violating the terms of the permit, shall be guilty of a petty misdemeanor and shall be punished as set forth in NMSA 1978, Section 3-17-1(C).
- B. Any person who has: (i) received a permit under this Chapter unlawfully, (ii) received a permit by fraud or false statement, (iii) who has been convicted of offenses under the Town Code related to the activity permitted by the permit; (iv) committed wrongful behavior or of a substantial character and of a public concern in relation to the permitted activity; (v) violated any provision of Section 16.16.195.4 of the Code; or (vi) who has violated an emergency proclamation of the Mayor pursuant to Section 2.04.020 ("Civil Emergencies, Proclamation of Civil Emergency; Powers of Mayor") of the Town Code, shall be guilty of a misdemeanor and punished as set forth in NMSA 1978, Section 3-17-1(C).

- C. Any person who fails to report or pay applicable taxes, including gross receipts tax and lodger's tax, shall be subject to any and all penalties set forth in this Ordinance, and any other applicable penalties existing under local or State Law.
- D. The Code Administrator shall document all alleged violations of this Ordinance and shall pursue enforcement as specified in this Section. Upon learning of a violation, the Code Administrator may, but is not required to, as a predicate to enforcement pursuant to this Ordinance, provide a written notice of violation to the Owner/Operator. If corrective action is not commenced within fifteen (15) days of the date of written notice, the Town may revoke the permit as provided in Section Twelve of this Ordinance.
- E. Any person found to be in violation of this ordinance shall not be eligible to apply for a new short-term rental permit for one year.

Section Eleven. Revocation of the Short-Term Rental Permit.

- A. Any person committing a violation of this Chapter or a State or Town Emergency or Public Health Order in force at the time of the violation shall suffer revocation of the short-term rental permit and shall lose the privilege of conducting short-term rentals within the boundaries of the Town of Taos.
- B. Before a Short-Term Rental permit is revoked, the holder of such permit shall be given ten (10) days' written notice of a hearing to be held before the Town Manager at which time the holder of such permit must show cause why such permit shall not be revoked. The notice to be given to the holder of such permit must state the grounds and the reasons for the revocation and must also state the date, time and place for which the hearing is set. The Town Manager shall promptly decide the matter and shall render a written decision. The decision of the Town Manager shall be final unless appealed to the Town Council by filing a notice of appeal within ten (10) working days of the decision of the Town Manager.
- C. For the purposes of this section, a finding of ineligibility shall not be considered equivalent to a finding of revocation.

Section Twelve. Short-Term Rentals on Nonresidential Property.

- A. A Short-Term Rental Unit shall be permitted within a nonresidential zoning district of the Town if the applicable zoning is satisfied and the appropriate special use permit is in place from the Planning and Zoning Commission, however, a Short-Term Rental Permit shall still be required, consistent with the provisions of this ordinance.
- B. The Owner/Operator of such dwelling unit must register with the Town and shall pay the required application, inspection and processing fee.
- C. The Owner/Operator shall comply with Section 6 of this Ordinance, report occupancy, and pay all applicable taxes.

Section Thirteen. Effective Date.

This Ordinance shall become effective on October 1, 2022.

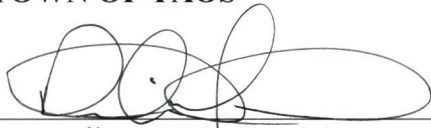
Section Fourteen. Severability.

If any subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision will not affect the validity of the remaining portions of the Ordinance. The Governing Body hereby declares that it would have passed this Ordinance and each and every subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid.

PASSED, APPROVED, AND ADOPTED this 27th day of September, 2022, at the Regular Meeting of the Town Council by the following vote:

Mayor Pro-Tem Darien D. Fernandez	<u>yes</u>
Councilmember Nathaniel Evans	<u>yes</u>
Councilmember Corilia I. Ortega	<u>yes</u>
Councilmember Marietta S. Fambro	<u>yes</u>

TOWN OF TAOS



Pascualito M. Maestas, Mayor

ATTEST:



Francella Garcia, Town Clerk



Christopher Stachura, Town Attorney